

IC 30-2-8.6

Chapter 8.6. Uniform Custodial Trust Act

IC 30-2-8.6-1

Applicability

Sec. 1. (a) This chapter applies to a transfer or declaration creating a custodial trust that refers to this chapter if, at the time of the transfer or declaration:

(1) the transferor, beneficiary, or custodial trustee:

(A) is a resident of; or

(B) has its principal place of business in Indiana; or

(2) custodial trust property is located in Indiana.

(b) The custodial trust remains subject to this chapter even if the transferor, beneficiary, or custodial trustee:

(1) changes its residence or principal place of business; or

(2) removes custodial trust property;

to a location outside Indiana.

As added by P.L.3-2003, SEC.1.

IC 30-2-8.6-2

Transfer under other state's law; enforcement

Sec. 2. A transfer made pursuant to an act of another state substantially similar to this chapter is governed by the law of that state and may be enforced in Indiana.

As added by P.L.3-2003, SEC.1.

IC 30-2-8.6-3

Construction

Sec. 3. This chapter shall be applied and construed to effectuate its general purpose to make uniform the law with respect to the subject of this chapter among states enacting it.

As added by P.L.3-2003, SEC.1.

IC 30-2-8.6-4

Citing chapter

Sec. 4. This chapter may be cited as the "Indiana Uniform Custodial Trust Act".

As added by P.L.3-2003, SEC.1.

IC 30-2-8.6-5

"Adult"

Sec. 5. As used in this chapter, "adult" means an individual who is at least eighteen (18) years of age.

As added by P.L.3-2003, SEC.1.

IC 30-2-8.6-6

"Beneficiary"

Sec. 6. As used in this chapter, "beneficiary" means an individual for whom property:

(1) has been transferred to; or

(2) is held under a declaration of trust by;
a custodial trustee for the individual's use and benefit under this chapter.

As added by P.L.3-2003, SEC.1.

IC 30-2-8.6-7

"Custodial trust property"

Sec. 7. As used in this chapter, "custodial trust property" means the following:

(1) An interest in property:

(A) transferred to; or

(B) held under a declaration of trust by;
a custodial trustee under this chapter.

(2) The income from and proceeds of the property interest described in subdivision (1).

As added by P.L.3-2003, SEC.1.

IC 30-2-8.6-8

"Custodial trustee"

Sec. 8. As used in this chapter, "custodial trustee" means a person designated as:

(1) trustee; or

(2) substitute or successor to the person designated as trustee;
of a custodial trust under this chapter.

As added by P.L.3-2003, SEC.1.

IC 30-2-8.6-9

"Guardian"

Sec. 9. As used in this chapter, "guardian" has the meaning set forth in IC 29-3-1-6.

As added by P.L.3-2003, SEC.1.

IC 30-2-8.6-10

"Incapacitated"

Sec. 10. As used in this chapter, "incapacitated" has the meaning set forth in IC 29-3-1-7.5.

As added by P.L.3-2003, SEC.1.

IC 30-2-8.6-11

"Legal representative"

Sec. 11. As used in this chapter, "legal representative" means a personal representative or guardian.

As added by P.L.3-2003, SEC.1.

IC 30-2-8.6-12

"Member of the beneficiary's family"

Sec. 12. As used in this chapter, "member of the beneficiary's family" means a beneficiary's spouse, descendant, stepchild, parent, stepparent, grandparent, brother, sister, uncle, or aunt, whether of whole or half blood or by adoption.

As added by P.L.3-2003, SEC.1.

IC 30-2-8.6-13

"Person"

Sec. 13. As used in this chapter, "person" means an individual, corporation, business trust, estate, trust, partnership, joint venture, association, or any other legal or commercial entity.

As added by P.L.3-2003, SEC.1.

IC 30-2-8.6-14

"Personal representative"

Sec. 14. As used in this chapter, "personal representative" has the meaning set forth in IC 29-1-1-3.

As added by P.L.3-2003, SEC.1.

IC 30-2-8.6-15

"State"

Sec. 15. As used in this chapter, "state" means a state, territory, or possession of the United States, the District of Columbia, or the Commonwealth of Puerto Rico.

As added by P.L.3-2003, SEC.1.

IC 30-2-8.6-16

"Transferor"

Sec. 16. As used in this chapter, "transferor" means a person who creates a custodial trust by transfer or declaration.

As added by P.L.3-2003, SEC.1.

IC 30-2-8.6-17

"Trust company"

Sec. 17. As used in this chapter, "trust company" means a financial institution, corporation, or other legal entity authorized to exercise general trust powers.

As added by P.L.3-2003, SEC.1.

IC 30-2-8.6-18

Creating a custodial trust

Sec. 18. (a) A person may create a custodial trust of property by a written transfer of the property to another person, evidenced by registration of the property or by an instrument of transfer that:

- (1) is executed in any lawful manner;
- (2) names an individual as beneficiary who may be the transferor; and
- (3) in substance, designates the transferee to be the custodial trustee of the property under this chapter.

(b) A person may create a custodial trust of property by a written declaration evidenced by registration of the property or by another instrument of declaration that:

- (1) is executed in any lawful manner;
- (2) describes the property;

(3) names as beneficiary an individual other than the declarant;
and

(4) in substance, designates the declarant, who is also the titleholder of the property, to be the custodial trustee of the property under this chapter.

(c) A registration or other declaration of trust for the sole benefit of the declarant is not a custodial trust under this chapter.

(d) Title to custodial trust property is in the custodial trustee and the beneficial interest is in the beneficiary.

As added by P.L.3-2003, SEC.1.

IC 30-2-8.6-19

Terminating a custodial trust

Sec. 19. (a) Except as provided in subsection (b), a transferor may not terminate a custodial trust.

(b) A custodial trust may be terminated by the beneficiary if the beneficiary is not incapacitated. In order to terminate the trust, the beneficiary must deliver to the custodial trustee a writing that:

(1) is signed by the beneficiary; and

(2) declares the termination of the custodial trust.

(c) If not previously terminated, a custodial trust terminates on the death of the beneficiary.

As added by P.L.3-2003, SEC.1.

IC 30-2-8.6-20

Adding trust property

Sec. 20. A person may augment existing custodial trust property by the addition of other property under this chapter.

As added by P.L.3-2003, SEC.1.

IC 30-2-8.6-21

Successor custodial trustee

Sec. 21. The transferor may:

(1) designate; or

(2) authorize the designation of;

a successor custodial trustee in the trust instrument.

As added by P.L.3-2003, SEC.1.

IC 30-2-8.6-22

Creation and enforcement of trust under other law

Sec. 22. (a) This chapter does not supersede or restrict other means of creating trusts.

(b) A trust whose terms do not conform to this chapter may be enforceable according to the terms of the trust under another law.

As added by P.L.3-2003, SEC.1.

IC 30-2-8.6-23

Custodial trust upon occurrence of future event

Sec. 23. (a) A person having the right to designate the recipient of property payable or transferable upon a future event may create a

custodial trust upon the occurrence of the future event by designating in writing the recipient, followed in substance by: "as custodial trustee for _____ (name of beneficiary) under the Indiana uniform custodial trust act".

(b) Persons may be designated as substitute or successor custodial trustees to whom the property must be paid or transferred in the order named if the first designated custodial trustee is unable or unwilling to serve.

(c) A designation under this section may be made by:

(1) making the designation in:

- (A) a will;
 - (B) a trust;
 - (C) a deed;
 - (D) a multiple party account;
 - (E) an insurance policy;
 - (F) an instrument exercising a power of appointment; or
 - (G) a writing designating a beneficiary of contractual rights;
- or

(2) registering the designation with or delivering the designation to the fiduciary, payor, issuer, or obligor of the future right.

As added by P.L.3-2003, SEC.1.

IC 30-2-8.6-24

Custodial trustee's acceptance of trust property

Sec. 24. (a) Obligations of a custodial trustee, including the obligation to follow directions of the beneficiary, arise under this chapter upon the custodial trustee's acceptance, express or implied, of the custodial trust property.

(b) The custodial trustee's acceptance may be evidenced by a writing stating in substance:

CUSTODIAL TRUSTEE'S RECEIPT AND ACCEPTANCE

I, _____ (name of custodial trustee) acknowledge receipt of the custodial trust property described below or in the attached instrument and accept the custodial trust as custodial trustee for _____ (name of beneficiary) under the Indiana uniform custodial trust act. I undertake to administer and distribute the custodial trust property under the Indiana uniform custodial trust act. My obligations as custodial trustee are subject to the directions of the beneficiary unless the beneficiary is designated as, is, or becomes incapacitated. The custodial trust property consists of

Dated: _____

(Signature of Custodial Trustee)

(c) Upon accepting custodial trust property, a person designated as custodial trustee under this chapter is subject to personal jurisdiction of the court with respect to any matter relating to the custodial trust.

As added by P.L.3-2003, SEC.1.

IC 30-2-8.6-25

Transfer for use and benefit of incapacitated individual

Sec. 25. (a) Unless otherwise directed by an instrument designating a custodial trustee under section 23 of this chapter, a person, including a fiduciary other than a custodial trustee, who:

- (1) holds property of; or
- (2) owes a debt to;

an incapacitated individual may make a transfer to an adult member of the beneficiary's family or to a trust company as custodial trustee for the use and benefit of the incapacitated individual. If the value of the property or the debt exceeds twenty thousand dollars (\$20,000), the transfer is not effective unless authorized by the court.

(b) A written acknowledgment of delivery, signed by a custodial trustee, is a sufficient receipt and discharge for property transferred to the custodial trustee under this section.

As added by P.L.3-2003, SEC.1.

IC 30-2-8.6-26

Multiple beneficiaries

Sec. 26. (a) Beneficial interests in a custodial trust created for multiple beneficiaries are considered to be separate custodial trusts of equal undivided interests for each beneficiary. Except in a transfer or declaration for use and benefit of husband and wife, for whom survivorship is presumed, a right of survivorship does not exist unless the instrument creating the custodial trust specifically provides for survivorship.

(b) Custodial trust property held under this chapter by the same custodial trustee for the use and benefit of the same beneficiary may be administered as a single custodial trust.

(c) A custodial trustee of custodial trust property held for at least two (2) beneficiaries shall separately account to each beneficiary under sections 27 and 35 of this chapter for the administration of the custodial trust.

(d) The custodial trust property or the income from the custodial trust property may not be subject to:

- (1) anticipation;
- (2) alienation;
- (3) assignment;
- (4) pledge;
- (5) appointment; or
- (6) any other voluntary or involuntary transfer;

before distribution by the custodial trustee. The custodial trustee may disregard and defeat an attempt to violate the requirements of this subsection.

As added by P.L.3-2003, SEC.1.

IC 30-2-8.6-27

Custodial trustee's powers and duties

Sec. 27. (a) If appropriate, a custodial trustee shall register or record the instrument vesting title to custodial trust property.

(b) If the beneficiary is not incapacitated, a custodial trustee shall follow the directions of the beneficiary in the management, control, investment, or retention of the custodial trust property. In the absence of effective contrary direction by the beneficiary while not incapacitated, the custodial trustee shall observe the standard of care that would be observed by a prudent person dealing with property of another and is not limited by any other law restricting investments by fiduciaries. However, a custodial trustee, in the custodial trustee's discretion, may retain any custodial trust property received from the transferor. If a custodial trustee has a special skill or expertise or is named custodial trustee on the basis of representation of a special skill or expertise, the custodial trustee shall use that skill or expertise.

(c) Subject to subsection (b), a custodial trustee shall take control of and collect, hold, manage, invest, and reinvest custodial trust property.

(d) A custodial trustee at all times shall keep custodial trust property of which the custodial trustee has control separate from all other property in a manner sufficient to identify it clearly as custodial trust property of the beneficiary. Custodial trust property, the title to which is subject to recordation, is so identified if an appropriate instrument identifying the property is recorded, and custodial trust property subject to registration is identified if it is registered, or held in an account in the name of the custodial trustee, designated in substance: "as custodial trustee for _____ (name of beneficiary) under the Indiana uniform custodial trust act".

(e) A custodial trustee shall keep records of all transactions with respect to custodial trust property, including information necessary for the preparation of tax returns, and shall make the records and information available at reasonable times to the beneficiary or legal representative of the beneficiary.

(f) The exercise of a durable power of attorney for an incapacitated beneficiary is not effective to terminate or direct the administration or distribution of a custodial trust.

As added by P.L.3-2003, SEC.1.

IC 30-2-8.6-28

Rights and powers

Sec. 28. (a) A custodial trustee acting in a fiduciary capacity has all the rights and powers over custodial trust property which an unmarried adult owner has over individually owned property, but a custodial trustee may exercise those rights and powers in a fiduciary capacity only.

(b) This section does not relieve a custodial trustee from liability for a violation of section 27 of this chapter.

As added by P.L.3-2003, SEC.1.

IC 30-2-8.6-29

Distribution of custodial trust property

Sec. 29. (a) If a beneficiary is not incapacitated, the custodial

trustee shall:

- (1) pay to the beneficiary; or
- (2) expend for the beneficiary's use and benefit;

so much or all of the custodial trust property as the beneficiary may direct from time to time.

(b) If the beneficiary is incapacitated, the custodial trustee, in the custodial trustee's sole discretion, may expend so much or all of the custodial trust property as the custodial trustee considers advisable for the use and benefit of:

- (1) the beneficiary; and
 - (2) individuals who:
 - (A) were supported by the beneficiary when the beneficiary became incapacitated; or
 - (B) are legally entitled to support by the beneficiary.
- (c) The custodial trustee may make expenditures:

- (1) in the manner;
- (2) when; and
- (3) to the extent;

that the custodial trustee determines suitable and proper. The custodial trustee may make expenditures without court order and without regard to other support, income, or property of the beneficiary.

(d) A custodial trustee may establish checking, savings, or other similar accounts of reasonable amounts under which:

- (1) the custodial trustee; or
- (2) the beneficiary;

may withdraw funds from, or draw checks against, the accounts. Funds withdrawn from, or checks written against, the account by the beneficiary are distributions of custodial trust property by the custodial trustee to the beneficiary.

As added by P.L.3-2003, SEC.1.

IC 30-2-8.6-30

Administering custodial trust for incapacitated beneficiary

Sec. 30. (a) The custodial trustee shall administer the custodial trust as for an incapacitated beneficiary if:

- (1) the custodial trust was created under section 25 of this chapter;
- (2) the transferor has so directed in the instrument creating the custodial trust; or
- (3) the custodial trustee has determined that the beneficiary is incapacitated.

(b) A custodial trustee may determine that the beneficiary is incapacitated in reliance upon:

- (1) previous direction or authority given by the beneficiary while not incapacitated, including direction or authority under a durable power of attorney;
- (2) the certificate of the beneficiary's physician; or
- (3) other persuasive evidence.

(c) If a custodial trustee for an incapacitated beneficiary

reasonably concludes that:

- (1) the beneficiary's incapacity has ceased; or
- (2) circumstances concerning the beneficiary's ability to manage property and business affairs have changed since the creation of a custodial trust directing administration as for an incapacitated beneficiary;

the custodial trustee may administer the trust as for a beneficiary who is not incapacitated.

(d) Upon the petition of:

- (1) the beneficiary;
- (2) the custodial trustee; or
- (3) another person interested in:
 - (A) the custodial trust property; or
 - (B) the welfare of the beneficiary;

the court shall determine whether the beneficiary is incapacitated.

(e) If:

- (1) the custodial trustee or a court has not determined that a beneficiary is incapacitated under subsection (b) or (d); and
- (2) the custodial trustee has reason to believe that the beneficiary is incapacitated;

the custodial trustee shall administer the custodial trust in accordance with the provisions of this chapter applicable to an incapacitated beneficiary.

(f) Incapacity of a beneficiary does not terminate:

- (1) the custodial trust;
- (2) any designation of a successor custodial trustee;
- (3) rights or powers of the custodial trustee; or
- (4) any immunities of third persons acting on the instructions of the custodial trustee.

As added by P.L.3-2003, SEC.1.

IC 30-2-8.6-31

Reliance on person purporting to be custodial trustee

Sec. 31. (a) A third person in good faith and without a court order may act on instructions of, or otherwise deal with, a person purporting to:

- (1) make a transfer as; or
- (2) act in the capacity of;

a custodial trustee.

(b) In the absence of knowledge to the contrary, a third person described in subsection (a) is not responsible for determining:

- (1) the validity of the purported custodial trustee's designation;
- (2) the propriety of, or the authority under this chapter for, any action of the purported custodial trustee;
- (3) the validity or propriety of an instrument executed or instruction given under this chapter by:
 - (A) the person purporting to make a transfer or declaration;
 - or
 - (B) the purported custodial trustee; or
- (4) the propriety of the application of property vested in the

purported custodial trustee.
As added by P.L.3-2003, SEC.1.

IC 30-2-8.6-32

Claim by third person against custodial trustee

Sec. 32. (a) A claim based on:

- (1) a contract entered into by a custodial trustee acting in a fiduciary capacity;
- (2) an obligation arising from the ownership or control of custodial trust property; or
- (3) a tort committed in the course of administering the custodial trust;

may be asserted by a third person against the custodial trust property by proceeding against the custodial trustee in a fiduciary capacity, whether or not the custodial trustee or the beneficiary is personally liable.

(b) A custodial trustee is not personally liable to a third person on a contract properly entered into in a fiduciary capacity unless the custodial trustee fails to:

- (1) reveal that capacity; or
- (2) identify the custodial trust in the contract.

(c) Unless a custodial trustee is personally at fault, a custodial trustee is not liable to a third person for:

- (1) an obligation arising from control of custodial trust property; or
- (2) a tort committed in the course of the administration of the custodial trust.

(d) A beneficiary is not personally liable to a third person for:

- (1) an obligation arising from beneficial ownership of custodial trust property; or
- (2) a tort committed in the course of administration of the custodial trust;

unless the beneficiary is personally in possession of the custodial trust property giving rise to the liability or is personally at fault.

(e) Subsections (b) and (c) do not preclude actions or proceedings to establish liability of the custodial trustee or beneficiary to the extent the person sued is protected as the insured by liability insurance.

As added by P.L.3-2003, SEC.1.

IC 30-2-8.6-33

Resigning or declining to serve as custodial trustee

Sec. 33. (a) Before accepting the custodial trust property, a person designated as custodial trustee may decline to serve as custodial trustee by notifying:

- (1) the person who made the designation;
- (2) the transferor; or
- (3) the transferor's legal representative.

(b) If the person designated to serve as custodial trustee declines to serve under subsection (a), and an event giving rise to a transfer

has not occurred:

(1) the substitute custodial trustee designated under section 23 of this chapter becomes the custodial trustee; or

(2) if a substitute custodial trustee has not been designated:

(A) the person who made the designation may designate a substitute custodial trustee under section 23 of this chapter;

or

(B) the transferor or the transferor's legal representative may designate a substitute custodial trustee.

(c) A custodial trustee who has accepted the custodial trust property may resign by:

(1) delivering written notice of resignation to:

(A) a successor custodial trustee, if any;

(B) the beneficiary; and

(C) if the beneficiary is incapacitated, the beneficiary's guardian, if any;

(2) transferring, registering, or recording an appropriate instrument relating to the custodial trust property in the name of the successor custodial trustee identified under subsection (d); and

(3) delivering the records to the successor trustee identified under subsection (d).

(d) If a custodial trustee or successor custodial trustee is ineligible, resigns, dies, or becomes incapacitated, the successor designated under section 21 or 23 of this chapter becomes custodial trustee. If there is no effective provision for a successor:

(1) the beneficiary, if not incapacitated, may designate a successor custodial trustee; or

(2) if the beneficiary is incapacitated, or fails to act within ninety (90) days after the ineligibility, resignation, death, or incapacity of the custodial trustee:

(A) the beneficiary's guardian becomes successor custodial trustee; or

(B) if the beneficiary does not have a guardian or the guardian fails to act, the resigning custodial trustee may designate a successor custodial trustee.

(e) If a successor custodial trustee is not designated under subsection (d), any of the following may petition the court to designate a successor custodial trustee:

(1) The transferor.

(2) The legal representative of the transferor.

(3) The legal representative of the custodial trustee.

(4) An adult member of the beneficiary's family.

(5) The guardian of the beneficiary.

(6) A person interested in the custodial trust property.

(7) A person interested in the welfare of the beneficiary.

(f) A custodial trustee who declines to serve or resigns, or the legal representative of a deceased or incapacitated custodial trustee, as soon as practicable, shall put the custodial trust property and records in the possession and control of the successor custodial

trustee. The successor custodial trustee may enforce the obligation to deliver custodial trust property and records and becomes responsible for each item as received.

(g) A beneficiary, an adult member of the beneficiary's family, a guardian of the person of the beneficiary, a person interested in the custodial trust property, or a person interested in the welfare of the beneficiary, may petition the court:

- (1) to remove the custodial trustee for cause and designate a successor custodial trustee;
- (2) to require the custodial trustee to furnish a bond or other security for the faithful performance of fiduciary duties; or
- (3) for other appropriate relief.

As added by P.L.3-2003, SEC.1.

IC 30-2-8.6-34

Compensation of custodial trustee

Sec. 34. Except as otherwise provided in the instrument creating the custodial trust, in an agreement with the beneficiary, or by court order, a custodial trustee:

- (1) is entitled to reimbursement from custodial trust property for reasonable expenses incurred in the performance of fiduciary services;
- (2) has a noncumulative election, to be made not later than six (6) months after the end of each calendar year, to charge a reasonable compensation for fiduciary services performed during that year; and
- (3) need not furnish a bond or other security for the faithful performance of fiduciary duties.

As added by P.L.3-2003, SEC.1.

IC 30-2-8.6-35

Written statement of trust administration; petition for accounting

Sec. 35. (a) Upon the acceptance of custodial trust property, the custodial trustee shall provide a written statement describing the custodial trust property. The custodial trustee shall provide a written statement of the administration of the custodial trust property:

- (1) once each year;
- (2) upon request at reasonable times by the beneficiary or the beneficiary's legal representative;
- (3) upon resignation or removal of the custodial trustee; and
- (4) upon termination of the custodial trust.

The statements described by this section must be provided to the beneficiary or to the beneficiary's legal representative, if any. Upon termination of the beneficiary's interest, the custodial trustee shall furnish a current statement to the person to whom the custodial trust property is to be delivered.

(b) The following may petition the court for an accounting by the custodial trustee or the custodial trustee's legal representative:

- (1) A beneficiary.
- (2) The beneficiary's legal representative.

- (3) An adult member of the beneficiary's family.
- (4) A person interested in the custodial trust property.
- (5) A person interested in the welfare of the beneficiary.
- (c) A successor custodial trustee may petition the court for an accounting by a predecessor custodial trustee.
- (d) In an action or proceeding under this chapter or in any other proceeding, the court may require or permit the custodial trustee or the custodial trustee's legal representative to account. The custodial trustee or the custodial trustee's legal representative may petition the court for approval of final accounts.
- (e) If a custodial trustee is removed, the court shall:
 - (1) require an accounting;
 - (2) order delivery of the custodial trust property and records to the successor custodial trustee; and
 - (3) order the execution of all instruments required for transfer of the custodial trust property.
- (f) On petition of the custodial trustee or any person who could petition for an accounting, the court, after notice to interested persons, may:
 - (1) issue instructions to the custodial trustee;
 - (2) review the propriety of the acts of a custodial trustee; or
 - (3) review the reasonableness of compensation determined by the custodial trustee for the services of the custodial trustee or others.

As added by P.L.3-2003, SEC.1.

IC 30-2-8.6-36

Claim against custodial trustee's claim barred against other parties

Sec. 36. (a) Except as provided in subsection (c), and unless previously barred by adjudication, consent, or limitation, a claim for relief against a custodial trustee for accounting or breach of duty is barred as to a beneficiary, a person to whom custodial trust property is to be paid or delivered, or the legal representative of an incapacitated or deceased beneficiary or payee:

- (1) who has received a final account or statement fully disclosing the matter, unless an action or proceeding to assert the claim is commenced not later than two (2) years after receipt of the final account or statement; or
 - (2) who has not received a final account or statement fully disclosing the matter, unless an action or proceeding to assert the claim is commenced not later than three (3) years after the termination of the custodial trust.
- (b) Except as provided in subsection (c), a claim for relief to recover from a custodial trustee for fraud, misrepresentation, or concealment related to the final settlement of the custodial trust or concealment of the existence of the custodial trust is barred unless an action or proceeding to assert the claim is commenced not later than five (5) years after the termination of the custodial trust.
- (c) The limitations on a claim for relief are as follows:
- (1) If the claimant is a minor, the claim is barred unless an

action or proceeding to assert the claim is commenced before the earlier of the following:

- (A) Two (2) years after the claimant becomes an adult.
 - (B) Two (2) years after the claimant dies.
- (2) If the claimant is an incapacitated adult, the claim is barred unless an action or proceeding to assert the claim is commenced before the earliest of the following:
- (A) Two (2) years after the appointment of a guardian for claimant.
 - (B) Two (2) years after the removal of the incapacity.
 - (C) Two (2) years after the death of the claimant.
- (3) If the claimant:
- (A) was an adult;
 - (B) is deceased; and
 - (C) was not incapacitated;
- the claim is barred unless an action or proceeding to assert the claim is commenced not later than two (2) years after the claimant's death.

As added by P.L.3-2003, SEC.1.

IC 30-2-8.6-37

Termination of a custodial trust

Sec. 37. (a) Upon termination of a custodial trust, the custodial trustee shall transfer the unexpended custodial trust property:

- (1) to the beneficiary, if not incapacitated or deceased;
- (2) to the guardian or other recipient designated by the court for an incapacitated beneficiary; or
- (3) upon the beneficiary's death, in the following order:
 - (A) as last directed in a writing:
 - (i) signed by the deceased beneficiary while not incapacitated; and
 - (ii) received by the custodial trustee during the life of the deceased beneficiary;
 - (B) to the survivor of multiple beneficiaries if survivorship is provided for under section 26 of this chapter;
 - (C) as designated in the instrument creating the custodial trust; or
 - (D) to the estate of the deceased beneficiary.

(b) If, when the custodial trust would otherwise terminate, the distributee is incapacitated, the custodial trust continues for the use and benefit of the distributee as beneficiary until the incapacity is removed or the custodial trust is otherwise terminated.

(c) Death of a beneficiary does not terminate the power of the custodial trustee to discharge obligations of the custodial trustee or beneficiary incurred before the termination of the custodial trust.

As added by P.L.3-2003, SEC.1.

IC 30-2-8.6-38

Creating a custodial trust

Sec. 38. (a) If a transaction, including a declaration with respect

to or a transfer of specific property, otherwise satisfies applicable law, the criteria of section 18 of this chapter are satisfied by either of the following:

- (1) The execution and either delivery to the custodial trustee or recording of an instrument in substantially the following form:

TRANSFER UNDER THE
INDIANA UNIFORM CUSTODIAL TRUST ACT

I, _____ (name of transferor or name and representative capacity if a fiduciary), transfer to _____ (name of trustee other than transferor), as custodial trustee for _____ (name of beneficiary) as beneficiary and _____ as distributee on termination of the trust in absence of direction by the beneficiary under the Indiana uniform custodial trust act, the following: (insert a description of the custodial trust property legally sufficient to identify and transfer each item of property).

Dated: _____

(Signature)

- (2) The execution and the recording or giving notice of its execution to the beneficiary of an instrument in substantially the following form:

DECLARATION OF TRUST UNDER THE
INDIANA UNIFORM CUSTODIAL TRUST ACT

I, _____ (name of owner of property), declare that henceforth I hold as custodial trustee for _____ (name of beneficiary other than transferor) as beneficiary and _____ as distributee on termination of the trust in absence of direction by the beneficiary under the Indiana uniform custodial trust act, the following: (Insert a description of the custodial trust property legally sufficient to identify and transfer each item of property).

Dated: _____

(Signature)

(b) Customary methods of transferring or evidencing ownership of property may be used to create a custodial trust, including any of the following:

- (1) Registration of a security in the name of:

- (A) a trust company;
- (B) an adult other than the transferor; or
- (C) the transferor if the beneficiary is other than the transferor;

designated in substance "as custodial trustee for _____ (name of beneficiary) under the Indiana uniform custodial trust act".

- (2) Delivery of:

- (A) a certificated security, or a document necessary for the transfer of an uncertificated security; and
- (B) any necessary endorsement;

to an adult other than the transferor or to a trust company as custodial trustee, accompanied by an instrument in substantially the form prescribed in subsection (a)(1).

(3) Payment of money or transfer of a security held in the name of a broker or a financial institution or its nominee to a broker or financial institution for credit to an account in the name of:

- (A) a trust company;
- (B) an adult other than the transferor; or
- (C) the transferor if the beneficiary is other than the transferor;

designated in substance: "as custodial trustee for _____ (name of beneficiary) under the Indiana uniform custodial trust act".

(4) Registration of ownership of a life or endowment insurance policy or annuity contract with the issuer in the name of:

- (A) a trust company;
- (B) an adult other than the transferor; or
- (C) the transferor if the beneficiary is other than the transferor;

designated in substance: "as custodial trustee for _____ (name of beneficiary) under the Indiana uniform custodial trust act".

(5) Delivery of a written assignment to:

- (A) an adult other than the transferor; or
- (B) a trust company;

whose name in the assignment is designated in substance by the words: "as custodial trustee for _____ (name of beneficiary) under the Indiana uniform custodial trust act".

(6) Irrevocable exercise of a power of appointment, pursuant to its terms, in favor of:

- (A) a trust company;
- (B) an adult other than the donee of the power; or
- (C) the donee who holds the power if the beneficiary is other than the donee;

whose name in the appointment is designated in substance: "as custodial trustee for _____ (name of beneficiary) under the Indiana uniform custodial trust act".

(7) Delivery of a written notification or assignment of a right to future payment under a contract to an obligor that transfers the right under the contract to:

- (A) a trust company;
- (B) an adult other than the transferor; or
- (C) the transferor if the beneficiary is other than the transferor;

whose name in the notification or assignment is designated in substance: "as custodial trustee for _____ (name of beneficiary) under the Indiana uniform custodial trust act".

(8) Execution, delivery, and recordation of a conveyance of an interest in real property in the name of:

- (A) a trust company;

(B) an adult other than the transferor; or
(C) the transferor if the beneficiary is other than the transferor;
designated in substance: "as custodial trustee for _____ (name of beneficiary) under the Indiana uniform custodial trust act".
(9) Issuance of a certificate of title by an agency of a state or of the United States that evidences title to tangible personal property:
(A) issued in the name of:
(i) a trust company;
(ii) an adult other than the transferor; or
(iii) the transferor if the beneficiary is other than the transferor;
designated in substance: "as custodial trustee for _____ (name of beneficiary) under the Indiana uniform custodial trust act"; or
(B) delivered to:
(i) a trust company; or
(ii) an adult other than the transferor or endorsed by the transferor to that person;
designated in substance: "as custodial trustee for _____ (name of beneficiary) under the Indiana uniform custodial trust act".
(10) Execution and delivery of an instrument of gift to:
(A) a trust company; or
(B) an adult other than the transferor;
designated in substance: "as custodial trustee for _____ (name of beneficiary) under the uniform custodial trust act".

As added by P.L.3-2003, SEC.1.

IC 30-2-8.6-39

Severability

Sec. 39. The provisions of this chapter are severable in the manner provided by IC 1-1-1-8(b).

As added by P.L.3-2003, SEC.1.